



CIVIL SERVICE COMMISSION

RULES AND REGULATIONS

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RULE 1 - OBJECTIVES AND SCOPE

Section 1. Objectives

It is the declared objective of the Commission to inspire public confidence in the City's service. The Commission shall provide the framework for the City to be able to:

- Recruit and hire a qualified workforce into the classified service based on merit
- Provide employees an opportunity for purposeful employment in public service
- Afford employees an opportunity for meaningful review in the application of these rules
- Afford employees the equality of opportunity for all qualified persons to compete for positions in the classified service
- Promote employees on the basis of merit

To these ends the Commission, the Director of Human Resources, hereafter referred to as the Director, and all officers and employees of the City shall work towards putting into full force and effect the merit principle of personnel administration as contemplated by the City Charter and the Human Resources Ordinance adopted by the Mayor and Council.

Section 2. Positions Covered

These rules and regulations shall apply to all officers, employees, and positions of employment now existing or hereafter created in the classified service as defined under the Human Resources Ordinance.

RULE II - ORGANIZATION

Section 1. Election of Officers

The Commission shall elect its Chairperson and Vice-Chairperson from among its membership at its regular meeting in April of each odd numbered year. They shall hold office for a period of two years or until their successors are elected and qualified.

Section 2. Meetings

- a) The Commission shall hold regular meetings quarterly in January, April, July and October. Special meetings may be called and continuances granted by the Chairperson, any three members of the Commission, or the Director. The Chairperson, and when absent, the Vice-Chairperson, shall preside at all meetings. Any three members shall constitute a quorum.
- b) City officers, City employees, and citizens of Tucson shall be accorded the right to be heard by the Commission upon request.

Section 3. Director of Human Resources

It is the responsibility and duty of the Director:

- 1) To act as Secretary of the Commission, keep its minutes, and to make a record of all its work.
- 2) To develop and put into continuous effect the policies and procedures necessary for the administration of personnel on a merit basis, including the announcement of recruitments, the recruitment of applicants, the evaluation of applicants, the establishment and maintenance of employee lists, and the availability of applicants for appointment.
- 3) To establish a human resources information system to record and track all employment actions.
- 4) To examine, certify, or refuse to certify on behalf of the Commission all payrolls involving all positions of employment in the classified service in accordance with these rules and regulations.
- 5) To perform such other duties as may be prescribed by these rules and regulations.
- 6) To appoint a designee or designees to assist in carrying out the duties as noted above.

RULE III – APPLICANT EVALUATIONS

Section 1. Duty of Director to Evaluate Applicants

As conditions warrant, the Director may conduct entrance and promotional recruitments for the purpose of establishing entrance and/or promotional employment lists.

Section 2. Promotional Recruitments and Applicant Evaluations

- a) Promotional recruitments shall be conducted under the supervision of the Director, and applicant evaluations shall consist of any combination of the following: written tests, ratings of training and experience, evaluations of performance ratings and seniority, performance tests, oral examinations, and verification of licenses and certifications. The combination in each case and procedures for the determination of the passing score shall be announced by the Director in advance of the recruitments, and shall be based on approved human resources practices.
- b) Competitive promotional recruitments shall be open only to probationary and permanent employees in the classified service who possess the minimum qualifications for the classification for which such recruitment is held.

Section 3. Non Competitive Promotions

An appointing officer may request to fill a vacancy by proposing that an employee holding a permanent position in the classified service and meeting the qualifications for the position, assume the vacant position non-competitively provided that a non-competitive promotion involving a transfer from one department to another must first be posted by the Department of Human Resources allowing interested and qualified employees to apply. A non-competitive promotion may not be processed when a competitive promotional employment list for the classification of the vacant position has been established and still exists. Unless approved by the Director, a non-competitive promotion may not be processed when an entrance employment list for the classification of the vacant position has been established and still exists. These restrictions shall not apply to incumbents of positions that are reallocated through the administration of the Position Classification Plan. The terms and provisions of this section do not apply to members of the Police and Fire Departments who are also members of the Public Safety Retirement System.

Section 4. Notices of Recruitments

The Director shall give public notice of all recruitments and in consultation with the appointing officer determine the number of days in advance of the closing date to be allowed for public notice. In no case, may the notice be less than five working days. Promotional recruitment notices must be at least fifteen calendar days in advance of the closing date. Every reasonable effort shall be made to attract qualified persons to

compete for positions. Recruitment notices shall be distributed as the Director may deem appropriate, except that promotional recruitment notices may be limited to give notice only to eligible employees. Public announcement of the recruitment shall specify the title and compensation range of the class of positions involved, description of duties, preferred qualifications and specific minimum qualifications deemed necessary, and the final date for receipt of applications.

Any recruitment that is approved by the Director on an “open continuous” basis will be subject to a merit hiring process when a vacancy occurs and applicants will be contacted regarding participation at that time. (See also Rule III, Section 16 – Open Continuous Recruitment.)

Section 5. Filing Applications

All applications shall be made on forms prescribed by the Director, and shall be filed by electronic format, or by any other means deemed reasonable by the Director. On such applications, the Director may require information covering the personal characteristics, education, training, experience, licenses, certifications, references of the applicant, and any other pertinent information. All applications shall be signed and the truth of all statements contained therein certified by such signature. Applications received after the closing date and at locations in a manner not designated by the Director shall be rejected.

Section 6. Qualifications of Applicants

- a) Except for competitive promotional recruitments, applicants for all recruitments must, on or before the closing date, meet all minimum qualifications for the class of positions involved and other requirements specified in recruitment notices. Required certifications and licenses may be obtained by the end of the period specified in the recruitment notice.
- b) All persons whose applications have been accepted shall be notified by the Director of the time and place of initial applicant evaluations where his/her presence is required. Such notice shall be made not less than five calendar days prior to the date fixed for the examination, unless otherwise noted in the job announcement.

Section 7. Disqualification of Applicants

- a) The Director shall reject the application and refuse to evaluate any applicant, or remove any applicant's name from the employment list, if the applicant:
 - 1) Has been discharged for just cause by the City, or otherwise separated from service and found ineligible for reemployment as provided in Rule IV, Section 5.
 - 2) Lacks any of the minimum qualifications established for the class of positions involved.

- 3) Due to disability is unable to perform the essential duties of such class with or without reasonable accommodation.
 - 4) Has made a false statement in the employment application.
 - 5) Has used or attempted to use political pressure or bribery to secure an advantage in the applicant evaluation or in securing an appointment from an employment list as a result of such evaluation.
 - 6) Has directly or indirectly obtained information regarding applicant evaluation methods or materials to which an applicant was not entitled.
 - 7) Has directly or indirectly obtained information regarding any examination to which the applicant is not entitled.
 - 8) Has failed to submit a complete employment application correctly or within the prescribed time limits.
 - 9) Has taken part in the compilation, administration, or scoring of the applicant evaluation.
 - 10) Is a member of the City of Tucson Civil Service Commission.
 - 11) Is deemed unsuitable for City employment for any job-related reason.
- b) An applicant who is not evaluated, or admitted to an applicant evaluation and is therefore disqualified, and an applicant whose name is removed from an employment list for any of the reasons specified in paragraph (a) of this section, shall be notified promptly by letter directed to the last known address. All such notices shall inform the persons involved of his/her right of review as provided for in Rule X.
- c) After the closing date fixed by the recruitment notice for the receipt of applications, if the Director determines there exists reason to cancel a recruitment or extend the closing date, the Director may do so. The Director shall notify all applicants of any such cancellation. When the closing date is extended, accepted applications received on the basis of the original recruitment notice shall be deemed adequate for any subsequent notice made for the same recruitment.

Section 8. Character of Applicant Evaluations

- a) Applicant evaluations may consist of a written, oral, or performance test, a rating of education, training and experience, any test or assessment of technical knowledge, manual skill, physical or mental fitness, or any combination thereof, which the Director deems will reveal the qualification of the applicant for the particular class.

Subject matter experts may be utilized in the evaluation of applicants when technical expertise is deemed necessary by the Human Resources Director.

- b) While retaining full authority to determine all criteria pertaining to applicant evaluations, the Director shall consult with the appointing officer concerned or with persons designated by the appointing officer as subject matter experts. A job analysis will be conducted to determine essential duties and minimum qualifications. Where a job analysis has been previously conducted, the analysis will be evaluated for current relevancy. Following this consultation, the Director shall determine the procedures to be followed in evaluating applications and the criteria to be assessed.
- c) The Director may limit the number of applicants to be evaluated:
 - 1) To those applicants who appear to be most qualified on the basis of any preceding applicant evaluation element such as rating of experience and training, written test, performance test, or oral board; or
 - 2) To those applicants who appear to be the most qualified as determined by a comparison of the applications submitted and specific criteria for the position developed by the Department of Human Resources in consultation with the appointing officer; or
 - 3) To a specified number of applicants as predetermined by the Director and set forth in the recruitment notice, or
 - 4) To those applicants who meet the preferred selection criteria as stated in the notice of recruitment.

Section 9. Conduct of Applicant Evaluations

- a) Applicant evaluations may be conducted at such times and in as many places as the Director may find practicable and necessary. Such places shall be accessible to the general public. Reasonable accommodation shall be provided to persons with disabilities.
- b) The identity of persons participating in any rating of training and experience shall be concealed from the evaluators. Oral boards shall be conducted by two or more qualified individuals.
- c) Any person holding political office or a member of the Civil Service Commission shall not be involved in the conduct of any applicant evaluation.
- d) All examinations, evaluations and ratings will be job-related and conducted impartially. Any examiner, evaluator and/or rater who cannot be fair and impartial in the assessment of one or more applicants due to familial, personal, business or prior supervisory relationship shall identify this concern to Human Resources as soon as the applicants' identities are disclosed.

- e) Human Resources will use professionally accepted principles and methods to ensure that examinations meet standards of validity and reliability.

Section 10. Scoring Applicant Evaluations

- a) The Director shall determine the final score of each applicant complying with all prescribed conditions and instructions and participating in all parts of an applicant evaluation. The final score shall be based upon all parts of the applicant evaluation and be computed in accordance with weights for the parts thereof set forth prior to the evaluation. Due regard shall be given to scientific statistical techniques and procedures in the computation of final scores and the rating of competitors. All applicants for the same class shall be accorded, insofar as conditions permit, uniform and equal treatment in all phases of the evaluation procedure.
- b) The Director shall select the procedure to be followed in determining the minimum final score which shall qualify applicants to have his/her name placed on the employment list established by such evaluation. Such procedure may limit eligibility:
 - 1) To those applicants whose final score is not less than a fixed minimum percentage grade to be determined by the Director, and,
 - a) included in the recruitment notice; or
 - b) if not included in such notice, to be so determined after the closing date for the receipt of applications, but before any part of the evaluation is conducted.
 - 2) To a fixed number from among those who on the basis of his/her earned scores on any one part or combination of parts of the evaluation are found to be best qualified. Such fixed number shall be determined by the Director before any part of the evaluation is conducted.
 - 3) To those applicants achieving a minimum final score determined after an opportunity to effectively utilize appropriate statistical techniques in calculating the score of applicants on any part or combination of parts of the evaluation, but before the identity of the applicants being evaluated is ascertained.

Failure to earn a minimum score or to place within a fixed number of the best qualified on any one part or combination of parts of the applicant evaluation, may be grounds for disqualifying an applicant and excludes participation in subsequent parts of an evaluation.

- c) In fixing the minimum percentage grade under paragraph (1) or the fixed number under paragraph (2) of Subsection (b), consideration may be given to the nature of

the evaluation, the number and quality of applicants, and the number of vacancies which may be reasonably expected in the class of positions involved during the life of the employment list to be established.

- d) When training and experience form a part of the total evaluation score, substitution of training for experience and of experience for training shall be allowed, as determined appropriate for the classification by the Director. Substitution criteria and eligibility shall be established, maintained and posted by the Director.

Section 11. Notices of Results of Applicant Evaluations

As soon as practicable, and in any event not later than thirty calendar days after the conclusion of an applicant evaluation, the final scores of applicants shall be completed and the appropriate employment list established. Immediately thereafter, the Director shall provide written notification to each applicant of the results of the applicant evaluation, and if successful, of the applicant's final score and relative position on the list.

Section 12. Special Evaluations

Special evaluations may be administered when the Director finds that the applicant's failure to be evaluated was due to an obvious error for which the Director or any assistants were responsible. No claim for special evaluation shall be allowed unless it is filed in writing with the Director within five calendar days after the date of the original evaluation.

Failure of an applicant to receive notice of an evaluation process when properly given, or failure of an applicant to follow written or oral instructions of monitors or examiners which were obviously understood by the majority of the applicants in attendance, shall not be regarded by the Director as proper grounds for a special evaluation. Any special evaluation shall be constructed on a pattern similar to the original evaluation, or it may be the same as the original if no opportunity has or could have been afforded the applicant to become familiar with its contents.

Section 13. Physical and Medical Examinations

All persons conditionally hired from an entrance employment list classification designated by the Director as requiring a medical examination, must submit to and successfully pass a medical examination immediately before being tendered a probationary or permanent appointment to a position in the classified service. The examination shall be prescribed by the Director and shall be made by a physician designated by the Director. The physician shall assess the fitness of the applicant to perform the duties and responsibilities for the classification of the position that has been offered to the applicant and shall report that assessment to the Director. The medical information received from that physician will be evaluated by the Director in relation to the specific duties of the position for which the individual is being considered, with due consideration given to the individual's work record and medical history. All

persons conditionally hired will be rejected due to his/her medical condition only when reasonable accommodation is not feasible.

The Director shall disqualify and remove any applicant's name from the established employment list if the applicant is unable to perform the duties of the classification with or without reasonable accommodation. Failure of any person to submit for such medical examination at the time and place designated shall cause the individual's name to be removed from the employment list from which it was originated.

Section 14. Applicant Evaluation Records

The Director shall be responsible for the maintenance of all records, including examination materials and individual applicant evaluation scores, pertinent to the applicant evaluation program. Applications and applicant evaluation records pertaining to those persons on the employment list, and other necessary evaluation records shall be kept for two years after the calendar year prepared or received. Evaluation records of appointees shall be kept until they separate from the City's service and no longer retain any right to reemployment. Applications and evaluation records of applicants not on the employment list may be destroyed three years after the employment list is established. All notices of changes of address shall be filed by applicants at the Department of Human Resources.

Section 15. Applicant Preference/Inclusion

A five point preference/inclusion credit shall be added to the final score of an applicant competing in an entrance evaluation provided that the applicant earns a passing score in accordance with Section 10, Subsection (b) of this rule, prior to the addition of such preference/inclusion credit and would be entitled to have his/her name placed on the employment list without regard to such preference/inclusion credit. Applicant eligibility shall be limited to:

a) Veterans' Preference

- 1) A veteran of the armed forces of the United States, including a member of the Guard or Reserve, as defined by Title 37, Chapter 1, Section 101, United States Code, separated therefrom under honorable conditions following more than six months of active duty shall be given a five point preference.

A veteran, including a member of the Guard or Reserve, shall be eligible to compete in examinations and receive an appointment to the Classified Service regardless of age provided qualifications are met and the veterans' age does not coincide with any retirement age prescribed by law.

- 2) An active member of the Guard or Reserve as defined by Title 37, Chapter 1, Section 101, United States Code, who can provide official documentation of more than six months of active duty while in the Guard or Reserve shall be

given a five point preference added to the individual's achieved final evaluation score on the same basis as if the member had been separated from the armed forces under honorable conditions in Subsection a (1) above.

- 3) A spouse or surviving spouse of any of the following, otherwise qualified pursuant to Subsection (a), shall be given a five point preference as if such spouse or surviving spouse were an applicant veteran pursuant to Subsection (a):
 - a) Any veteran who died of a service connected disability.
 - b) Any member of the armed forces serving on active duty who at the time of application is listed by the Secretary of Defense of the United States in any of the following categories for not less than ninety days:
 - 1) missing in action
 - 2) captured in the line of duty by a hostile force
 - 3) forcibly detained or interned in the line of duty by a foreign government or power
 - c) A person who has a total, permanent disability resulting from a service connected disability or any person who dies while such disability was in existence.

b) Preference for Persons with Disabilities

A person with a disability who certifies in writing that he or she has such a disability shall be granted a 5 point preference. A disability is defined as one having a mental or physical impairment which substantially limits one or more major life activities (walking, talking, seeing, hearing, breathing, speaking, learning, working, caring for one's self, and performing manual tasks).

Any offer of employment offered as a result of a ranking which included said 5 preference points, shall be contingent upon the applicant providing evidence satisfactory to the Director of the existence of said disability.

c) Inclusion Points for Native Americans

- 1) A Native American applicant may receive five inclusion points when the equal employment opportunity job group within which the applicant is competing is determined to be underutilized by the City. Representation statistics will be established in the equal opportunity data report and maintained in the City's Office of Equal Opportunity Programs and Independent Police Review.

- 2) To receive inclusion points, eligibility must be established by presentation of tribal membership identification documentation, Certificate of Degree of Indian Blood, or Notice of Approval letter from an officially designated Native American Tribe or Nation.

d) **Maximum Preference/Inclusion Points Allowable**

A person qualified for preference and/or inclusion credit under more than one subsection shall be awarded a maximum of ten points.

Section 16. Open Continuous Recruitment

The Director may designate the closing date for any recruitment as indefinite. Applications for these positions may be filed with the Director on an open continuous basis. Applicant evaluations may also be conducted on an open continuous basis in the manner, time and place as the Director provides. Notice for open continuous evaluations shall not be limited by Rule III Section 4 to the extent that applicants applying for the evaluation after notices have been given may be admitted to the evaluation if circumstances permit.

RULE IV - ESTABLISHMENT OF EMPLOYMENT LISTS AND THEIR USE

Section 1. Entrance and Promotional Lists

- a) Both entrance and promotional employment lists shall include the names of all persons whose final scores in the applicant evaluation equal or exceed the minimum required score, or are among a predetermined fixed number of applicants. Names shall be placed on the employment list in ranked order with the name of the person receiving the highest score heading the list. Whenever two or more applicants have equal scores, their names shall have equal ranking on the employment list.
- b) Whenever it becomes advisable to hold a subsequent applicant evaluation in order to establish a new entrance or promotional list, the Director may consolidate the existing list and the new list for the same class by arranging the names of applicants according to their final scores in the respective evaluations, the name of the applicant receiving the highest score in either evaluation heading the list. The names of applicants taken from the existing list and appearing on the new list shall be removed on the expiration date of the list on which their names originally appeared. In all cases, persons whose names appear on the existing list shall be duly notified and provided they possess the current qualifications for the class involved, be provided the opportunity to be evaluated for the new list. Should any person being evaluated for the new list receive a higher score than earned previously, the higher score determines the position on the employment list, otherwise placement shall be determined by the score earned in the evaluation for the existing list until the date of that list's expiration when it shall revert to the position earned in the evaluation for the new list.
- c) If a vacancy exists in a class of positions for which there is no specific employment list or such list is insufficient as determined by the Director, the Director may establish an employment list for the class from applicants who appear on other lists and possess the skills, knowledge, and abilities required by the position to be filled. For this purpose the Director may review lists for classes which have the same or similar skills, knowledge, or abilities specified in the class description as for those specified in the class in which the vacancy exists. The Director may re-rate education and experience in accordance with Rule III, Section 10, Subsection (d) on the basis of the current qualifications required for the class in which the vacancy exists.

Section 2. Duration of Entrance and Promotional Lists

- a) The duration of each entrance or promotional list shall begin with the date of the list; each entrance list shall expire after six months and each promotional list shall expire after two years. Once an entrance or promotional list is in effect, the Director

may reduce its duration, cancel or extend the list. When the duration of a list is reduced or a list is canceled, all persons whose names appear thereon shall be notified and, provided they possess the current qualifications for the class involved, given an opportunity to be evaluated during the establishment of a new list. Lists may be extended by the Director prior to their expiration in six month increments.

- b) An entrance or promotional list for a class is deemed canceled if the class for which it was established is abolished. If a class is divided, the employment list or lists for the class may likewise be divided, the names of applicants thereon being placed on one or more new lists established on the basis of compliance with qualifications prescribed for such new classes. If two or more classes are consolidated, the associated employment lists may also be consolidated. When employment lists are so divided or consolidated, for expediency the Director may re-rate the education and experience of applicants involved to determine their order or rank on the new lists.

Section 3. Establishment of Reemployment Lists

- a) The Director shall establish and maintain reemployment lists for positions in the classified service when former eligible employees request that their names be placed on such lists. Such lists shall include the name of persons who have attained the status of permanent employees and who have been laid off or otherwise separated from their positions without fault or delinquency on their part.
- b) Permanent employees separated as provided in (a) above from positions in superior classes, may request that their names also be placed on the reemployment list or lists for any inferior class or classes which the Director deems appropriate.
- c) Names shall be placed on reemployment lists in the order of length of service. The name of the person having the greatest length of service in the class for which a particular list is established shall head the list. Service as a probationary employee shall be included in calculating an employee's length of service in a given class.
- d) When positions allocated to a class are located in two or more departments of the City, in addition to the service-wide reemployment list, the Director may establish as many department-specific reemployment lists for such classes as necessary. A department reemployment list for a class shall include only the names of persons separated as provided in Subsection (a) from a position in that particular class while employed in the department for which such list is established. The provisions of Subsections (b) and (c) shall apply to a department reemployment list, but only service in the particular department for which the list is established shall be considered in determining length of service for that list.
- e) Any permanent employee terminated for medical reasons as verified by the City Physician who is otherwise in good standing and eligible for rehire shall, upon written request to the Director, be placed on reemployment lists for classifications for which the former employee possesses the requisite qualifications for a period

not to exceed two years from the effective date of termination, provided the former employee is medically and physically qualified to perform the assignments.

- f) A former permanent employee who left the classified service to accept a position in the unclassified service, may request that the Director place his/her name on a reemployment list for any classification in which the employee previously attained permanent status, provided that the employee has remained in the employ of the City without any break in service.

Section 4. Duration of Reemployment Lists

- a) The name of a former employee placed on a reemployment list or lists in accordance with Section 3, shall be retained thereon for a period of two years from the date of separation from the employee's position in the class for which such list is established, unless removed in accordance with the provisions of these rules.
- b) In no event shall a reemployment list be canceled in its entirety unless the class for which it is established is abolished. A reemployment list for a class shall be divided if such class is divided and lists for two or more classes shall be consolidated if such classes are consolidated.

Section 5. Removal of Names from Employment Lists

- a) The Director shall remove the name of an applicant from a list for any of the following causes:
 - 1) On receipt of a statement from the applicant stating consideration for a position in the classified service of the City is no longer desired.
 - 2) On evidence that the applicant cannot be located by the postal authorities or that the applicant's legal residence has been changed to a place outside the area prescribed for the particular employment list involved.
 - 3) If upon inquiry by the Director, the applicant declines three considerations for a probationary appointment to the class for which the list involved was established, provided the applicant has not previously waived such consideration.
 - 4) If the name of an applicant has been considered from the same promotional or entrance list for appointment at least three times and an appointing officer has indicated in writing that for any three separate positions that such applicant is not acceptable.
 - 5) If an applicant has declined a probationary or permanent appointment as provided in Rule VI, Section 2, Subsection (c).

- 6) If an applicant fails to respond to a written communication from the Director in which a reply is requested, within the time required by any of these rules involved, or in other instances within ten calendar days from the date of the postmark.
- 7) When an applicant has failed without cause to appear for a scheduled interview.
- b) Except for items (1) and (4), the Director shall notify the applicant by mail directed to the last known address, of the action taken under this section, the reasons for the action, and of the applicant's right of review as provided in Rule X.
- c) Any applicant whose name has been removed due to three not acceptable considerations may request a review of the record by the Director of Human Resources to ensure that consideration was given by the appointing officer for three separate positions. This would not necessarily require three interviews, but only consideration for three separate positions.

Section 6. Waivers

Any person whose name appears on an employment list may file a waiver of appointment for either an indefinite or a specified period of time. All waivers shall be filed with the Director and shall be subject to revocation at any time. The name of any applicant who has filed a waiver shall not be considered during the time for which it is effective. A declination by an applicant to be considered for an appointment to a position not covered by an acceptable waiver previously filed, and a declination to accept appointment to a position for which the applicant has accepted consideration, shall not be deemed as a waiver.

RULE V - CERTIFICATION OF APPLICANTS

Section 1. Request to Hire

- a) Except for emergency appointments, before making any appointment to a position in the classified service, the appointing officer shall submit a request to hire to the Director on a prescribed form. This request shall state the number of positions to be filled in each class, the class title and other pertinent information required by the Director, and may contain any of the special requests provided for in Section 1 subsection (c) of this rule.
- b) Unless otherwise provided in the Civil Service Rules, all appointments to the Civil Service must be made from an employment list prepared in accordance with the Civil Service Rules and Human Resources Department procedures.
- c) Human Resources may make a specialized employment list based on specialized requirements for the position when the selective requirements (unique to the specific position being filled) and the selective employment list are included in the notice of recruitment.
- c) Emergency appointments as required during a State of Emergency as defined in the Tucson Code (Sec. 10-3) are exempted from compliance with the usual procedures of request for and certification of a list of candidates as set forth in the Civil Service Rules.
- d) Emergency means an unforeseen occurrence or combination of circumstances which would not have been foreseen in the exercise of reasonable care, and which required immediate action and remedy.
- e) Emergency appointment means the appointment of an individual to a position required by a state of emergency without compliance with the usual procedures of request for and certification of applicants therefor as provided in the rules and regulations.

Section 2. Method of Certification

- a) At the conclusion of the Civil Service examination process, Human Resources will provide to the hiring department a certified list of candidates with the top seven final examination scores including ties. When more than one position is being filled, additional candidates with the next three highest scores will be added to the certified list for each additional position. The list will be in rank order and will include all candidates with tied scores.

- b) Whole list certification may be used for police officer, firefighter trainee, police dispatcher and 911 operator recruitments. Procedures must be in place to ensure that merit selections are made from the whole list. Alternative certification may be used for other recruitments as determined by the Director and on such conditions as approved by the Commission.
- c) An appointing officer will consider applicants for hire from the following employment lists:
 - a) The Citywide reemployment list
 - b) The promotional list, and
 - c) The entrance list.
- d) Special program(s) involving funding or other legitimate requirements that allow only candidates meeting specific stated qualifications such as residing in a specific geographic area, being unemployed, being disadvantaged, or other reasonable conditions, may be made by selective consideration of only those applicants on the employment list meeting the stated criteria. Any request for selective consideration must be made in advance, in writing, by the appointing officer and specifically approved by the Director.
- e) When the hiring department determines that none of the applicants on the initial list is suitable for the position, the department may request additional candidates from those successfully completing the merit process, or request a new recruitment if necessary. Any department requesting additional candidates or a new recruitment must provide written justification to the Human Resources Director as to why all candidates are not suitable for appointment. Upon approval of the Human Resources Director, this process may continue until the employment list is exhausted or the recruitment is reopened.
- f) An appointing officer shall be permitted to examine applications and other Human Resources documents of the applicants being considered for hire.
- g) The departmental final selection shall include a selection interview and may include additional examinations. The departmental final selection interview shall either offer all candidates on the certified list the opportunity for interview, or interview candidates in the order in which they appear on the certified list until a suitable candidate is identified through the final interview process. The Director of Human Resources or designee must review and authorize interview questions and any additional examinations based on job relatedness and scoring validity. An interview shall not be required if the department selects applicants based upon the ranked order his/her names appear on the list beginning with the applicant receiving the highest score.

- h) The Director will schedule applicants for interviews. An applicant may be considered not available by the Director if there is no reply to a written inquiry after five calendar days from the date of the postmark to the last known address of the applicant, and/or no reply to an e-mail inquiry to the e-mail address, if any, provided by the applicant.
- i) If there has been no final selection interview as per (g) above, then the hiring departments shall appoint the applicant with the highest score in the final selection process unless the highest scoring applicant declines the appointment in which case the department may offer the appointment to the next highest scoring applicant and so on until the appointment is made.
- j) Hiring departments must submit all departmental and interview ratings to the human Resources Director prior to final selection of a candidate. The Human Resources Department will notify the hiring authority of the approval to make an offer of employment.
- k) Except where deemed appropriate by the Director, none of the above provisions of this section shall apply to hiring from the pool of applicants for specific classes designated by the Director for non-permanent appointments.

RULE VI - APPOINTMENTS

Section 1. General

All appointments to positions in the classified service shall be made in accordance with this rule and in no other manner whatsoever.

Section 2. Probationary and Permanent Appointments

- a) In making original, promotional probationary and permanent appointments, the appointing officer shall appoint from the number of applicants on employment lists in accordance with Rule V, Section 2.
- b) Appointments shall be reported on prescribed forms to the Director.
- c) An applicant being considered for a probationary or permanent promotional appointment may be deemed to have declined the appointment, absent good cause, if he/she:
 - 1) Fails to appear for a scheduled interview with the appointing officer; or
 - 2) Fails to respond to written notification within five calendar days; or
 - 3) Fails to accept the appointment when offered; or
 - 4) Upon accepting the appointment and absent adequate justification fails to report to work at the time and place specified.

It shall be the duty of the appointing officer to furnish evidence of the declination for permanent record of the Commission, and the Director shall determine whether such failure on the part of the applicant constitutes a declination.

- d) In instances where the City assumes responsibility for the operation of a facility, employees of that facility may, with the prior approval of the Commission and subject to any condition imposed by the Commission, be conditionally appointed without examination providing that:
 - 1) Employees meet the qualifications established by the classification for the position to be occupied.
 - 2) There are vacancies in the positions to be occupied
 - 3) Employees agree to start as new employees on probation. The Commission may authorize prior service credit toward the completion of probation by the new employees if the facility for which the City assumes responsibility is operated by a public agency.

- 4) Employees conditionally hired into a classification that has been designated by the Director as requiring a medical examination must submit to and successfully pass a medical examination immediately before being tendered a probationary or permanent appointment to a position in the classified service.
- 5) Such employees are acceptable for employment by the appointing officer.
- e) In instances where the City participates in special federal or state funded programs, such employees may be transferred into the classified service of the City subject to the provisions of subject paragraph (d) above, with such employment contingent upon continued federal or state funding including fringe benefits. Cessation of such special funding would result in the automatic termination of such employees in the program without right of appeal.

Section 3. Temporary Appointments

- a) Whenever a need exists to hire or promote an employee into a permanent position because of a temporary vacancy the appointing officer may request to fill the position on a temporary basis. The duration of a temporary appointment or promotion shall be limited to the period of need and in no event shall it be continuous uninterrupted service in excess of twelve months.
- b) Temporary appointments shall be made from employment lists certified by the Director. Temporary promotions shall be made from the appropriate employment or promotional lists. In the absence of an employment or promotional list, the appointing officer may temporarily promote an employee qualified to do the work.
- c) All employees temporarily appointed or promoted must meet the qualifications of the classification they are appointed or promoted into.
- d) The acceptance or declination by an applicant of a temporary appointment shall not affect the applicant's standing on any employment list or eligibility for a probationary appointment.
- e) Employment under a temporary appointment or promotion shall not be counted as part of a probationary period. The appointing officer may terminate a temporary appointment or promotion at any time without notice or right of appeal, but shall transmit to the Director the reasons for such actions.
- f) Temporary promotions of commissioned uniformed personnel may be allowed in the Police and Fire Departments when:
 - 1. A promotional list for the class does not exist, if a competitive promotional process has begun to establish a promotional list for the class and the person temporarily promoted is not a competitor for a permanent position in that class.

2. A promotional list exists and selection for the temporary promotion is made from that list. Selections for temporary promotions will customarily be made in rank order from that list.

Section 4. Nonpermanent Appointments

- a) Nonpermanent positions are designated annually as intermittent, seasonal or temporary by the Human Resources Director. Nonpermanent positions supplement the regular permanent workforce and include only the following:
 1. Intermittent positions work up to 1,500 hours per fiscal year on an on-call as needed basis or on schedules that vary depending on workload.
 2. Seasonal positions work up to 1,500 hours per fiscal year with specific start and end dates to cover workloads in specific periods of the year.
 3. Temporary positions work part-time or full-time on a specific project that is expected to be one year or less in duration. Temporary positions can be extended one time for an additional six months with the approval of the City Manager.
- b) Nonpermanent positions must be advertised as nonpermanent positions on the recruitment notices. Newly appointed nonpermanent employees must sign an acknowledgement that the position is non-permanent.
- c) The acceptance or declination by an applicant of a nonpermanent appointment shall not affect an applicant's standing on any employment list or eligibility for a probationary appointment.
- d) Employment under a nonpermanent appointment or promotion shall not be counted as part of a probationary period. Nonpermanent appointments do not grant any property rights to the incumbent. The appointing officer may terminate a non-permanent appointment or promotion at any time without notice or right of appeal, but shall transmit to the Director the reasons for such actions.

Section 5. Employment in Grant Funded Positions

Any person employed by the City, who on initial entry into City employment under any type of appointment in a position specifically designated on the prescribed form as funded in whole or in part through a grant from a public or private source, shall be informed in writing by the Director at the time of appointment, and the person shall acknowledge in writing, that the provisions have been read and understood that employment will cease at the termination of the grant regardless of the status of the employee and without regard to length of service. Persons so terminated will not be entitled to the layoff provisions set forth in Rule VIII, Section 2; except employees paid through an annually recurring funding source. A grant-funded employee may, subject to other provisions provided for by these rules, be transferred, promoted or demoted

into a non-grant funded position and become entitled to the provisions of the Civil Service Rules and Regulations governing other city employment. Permanent classified employees who have previously completed a probationary period in a non-grant funded position and are serving in a grant funded position are exempt from the requirements of this section.

Section 6. Assignment Positions

- a) An assignment position is a position that includes:
 - 1) Executive duties and responsibilities ancillary to the base classification that are performed for and at the direction of the appointing officer; or
 - 2) Unusual hazard in the performance of assigned duties and responsibilities; or
 - 3) Trainee positions; or
 - 4) Public safety assignments; or
 - 5) Pilot programs authorized by the City Manager. All assignment positions shall be included in a salary ordinance adopted by the Mayor and Council.
- b) An appointing officer may, in his or her sole discretion, appoint any employee within a particular classification to an assignment position within that classification. Appointments to assignment positions may be terminated by the appointing officer at any time without just cause or right of appeal to the Civil Service Commission.

RULE VII - PROBATIONARY PERIOD

Section 1. Commencement, Duration, Nature and Purposes

- a) All original and promotional appointments of eligible persons to permanent positions shall be made subject to a probationary period. Employees in positions whose classifications are changed as a result of a formal classification evaluation by Human Resources and who have passed probation in the prior classification will not serve a probationary period in the new classification. Employees who have not completed probation in the prior classification will serve the balance of his/her probation in the new classification. Employees who are appointed to a classification through transfer or demotion shall serve in a probationary period if a probationary period in that classification has not been completed except that if the employee is demoted to a class in the same series, a probationary period is not required if the employee has passed probation in the higher classification. Such probationary period shall commence with the date of the appointment except for entrance into the uniformed service of the Police or Fire Departments when the probationary period shall commence when the employee enters the Police or Fire Training Academy.
- b) The Probationary period for employees shall be twelve months. Classifications that require the completion of a formal training program to prepare employees to effectively perform his/her job duties may be approved by the Director for eighteen-month probationary periods.
- c) Any employee who for more than three consecutive weeks during the probationary period is on authorized leave or is at work but unable to perform all duties of the position shall have the probationary period extended by the amount of time that the employee was on leave or not fully performing. Additionally, employees of the Police Department in the classification of Police Officer who are unable to complete the initial training program, yet are retained by the Police Department in a paid non-training assignment, shall have the probationary period extended for the amount of time the employee is in the paid non-training assignment.
- d) Whenever a probationary period is interrupted, through no fault of the employee, and the employee is subsequently reappointed within two years to a position in the same classification under the same appointing officer, the time served under such prior probationary appointment shall be included as part of the total probationary period. If such reappointment is made, to a position in the same class under a different appointing officer, the employee shall start a new probationary period, unless the appointing officer specifically requests prior to the subsequent appointment, and the Director approved, that the time served under the prior probationary appointment be credited towards the current probationary period.

The probationary period shall be an essential part of the applicant evaluation process and shall be utilized for the most effective adjustment of new employees and for the termination of those employees whose performance does not meet required standards. The Director shall require appointing officers and his/her supervisory staff to prepare performance evaluations of all probationary employees at the end of each six months of the probationary period.

Section 2. Expiration of Probationary Period

The appointing officer shall file with the Director prior to the expiration date of the employee's probationary period, on a form prescribed by the Director, an appraisal of the employee's performance. For employees not meeting standards during probation, an appointing officer may process a:

- 1) Discharge if the employee is serving under an original appointment or has not completed a prior probationary period; or
- 2) Reinstatement in the most recent class in which the employee completed a probationary period.

Failure of the appointing officer to serve the employee with one of the notices indicated above prior to the last day of the probationary period will result in the employee passing probation automatically.

Section 3. Discharges and Terminations during Probationary Period

- a) An employee serving under an original appointment, or an employee who has not previously completed a probationary period, may be discharged during the probationary period without right of appeal or hearing, but the reasons for any discharge shall be submitted in writing by the appointing officer to the Director and shall be filed as a permanent record.
- b) A permanent employee whose service in a particular class is terminated at any time during a promotional probationary period, shall have no right of appeal or hearing, but shall immediately be reinstated to a position in the most recent class in which the employee completed a probationary period, and under the appointing officer in which that probationary period was completed, even though a layoff in the latter class is made necessary. Persons appointed to fill vacancies in any class caused by the promotion, demotion, or transfer of employees shall take such appointment subject to the right of the person promoted, demoted, or transferred, to be so reinstated.
- c) A permanent employee serving a promotional probationary period may be discharged from City employment for just cause in accordance with the provisions of these rules.

- d) The Director after consultation with the appointing officer may restore the name of a probationary employee whose services in a particular class have been terminated to the employment list from which it originated, provided such list has not expired; but it shall not be considered from that list by the appointing officer that terminated the employee's service without consent.

Section 4. Promotions during Probationary Period

The serving of a probationary period shall not of itself prevent an employee from being promoted to a position in a higher class. If an employee is promoted during the probationary period, the probationary period for the class to which promoted shall begin with the date of appointment thereto.

RULE VIII - TRANSFERS AND LAYOFFS

Section 1. Transfers

- a) An employee holding a position in any given class may at any time be transferred or request a transfer to another position in the same class, or to another position in another class which in accordance with the compensation plan is at the same salary grade. A transfer from a position in one class to a position in another class which in accordance with the compensation plan is assigned a higher salary grade shall be deemed a promotion, and a transfer from a position in one class to a position in another class which in accordance with the compensation plan is assigned a lower salary grade shall be deemed a demotion. Promotions and demotions shall be accomplished only in the manner provided in these rules for promotions and demotions.
- b) If the transfer involves two appointing officers, the receiving department and the HR Director must agree to the transfer of an employee from one department to another. For the transfer to occur a vacancy must exist in the same class in the selected department. Any transfer shall not affect pending disciplinary action appealable to the Civil Service Commission.
- c) If the transfer involves two appointing officers, the appointing officer of the department where the employee is located may request up to ten working days from the date of notification prior to the effective date of the transfer.
- d) An employee may be transferred from a position in one class to a position in another class provided that such employee's qualifications have been reviewed and determined to meet the qualifications for the class to which transferred; that there is a vacancy in the class to which the transfer is to be made; and that the employee shall serve a probationary period in the class to which transferred if a prior probationary period in that class has not been completed.

Section 2. Layoffs

- a) Whenever a reduction in employees is required because of a shortage of funds or work, or a material change in duties or organization, employees shall be laid off, within specific classifications, in inverse order of seniority provided that temporary and other non-permanent employees, and employees serving an initial probationary period, occupying the given class are laid off in such order before permanent employees. For purposes of this rule, seniority shall be defined as an employee's total length of continuous service with the City as a probationary/permanent employee. Layoffs shall be accomplished on a departmental basis within the affected job classification and may require the transfer of employees within a job classification under the jurisdiction of the appointing officer. Layoffs shall not be used in lieu of discipline.

The following procedure shall be followed:

- 1) The decision regarding which classifications will be affected by layoff and when layoff will be effective shall be made by the appointing officer who shall draft a Layoff Plan.
 - 2) When any classification in a department is subject to layoff, all vacant positions in the classification within the department shall be eliminated and all nonpermanent employees in that classification within the department shall be terminated before any permanent employee is laid off.
 - 3) When the appointing officer identifies a permanent employee as subject to layoff, the permanent employee's bump rights shall be determined; the employee shall be permitted to take employment in a lower class in the same class series, or in some other lower class in which the employee has completed probation each of which must be or have been under the same appointing officer, provided that the employee can perform the essential duties of the position and the action does not cause the layoff of an employee with more seniority.
 - 4) The Layoff Plan will identify each classification subject to layoff, identify whether grant-funded employees in the classification will be grouped with other employees for layoff purposes, identify employees within specific classifications in inverse order of seniority, the employees who have bump rights within the department, the manner in which bump rights would have an impact on the layoffs, and the employees who will be laid off.
 - 5) The appointing officer shall give written notice of a layoff at least two weeks prior to the effective date of any proposed layoff unless otherwise required by law.
- b) When there is a tie in seniority, the department will use the following criteria for layoff:
 - 1) Date of entry in classification, or if the same
 - 2) The date and time of the employee application.
 - c) Any permanent employee who is laid off in accordance with paragraph (a) of this rule, whether or not the employee takes employment in a lower classification shall be placed on the citywide reemployment list for the class from which the employee is laid off.
 - d) When a permanent employee has been laid off from City employment, said employee, within ten calendar days after the effective date of layoff, may request a review thereof by the Commission. Such request shall be in writing and shall specify the grounds upon which the appeal is based and shall be forwarded to the Director of Human Resources. The Director of Human Resources, within ten calendar days of receipt of the request, shall submit the request for review with his

or her written response to the Civil Service Commission. The review by the Commission shall be only to ascertain compliance with the provisions of the Tucson Charter, Chapter XXII, the Tucson Code, Chapter X; and the Civil Service Commission Rules and Regulations relating to layoffs. The Civil Service Commission, upon review of the written record, shall within thirty calendar days order a hearing to be held on the matter, or render a final written decision which shall contain Findings of Fact that the provisions of the Tucson Charter, Chapter XXII; the Tucson Code, Chapter X; and the Civil Service Commission Rules and Regulations relating to layoffs have been complied with. Such decision shall be entered into the record and will be binding upon all parties. Failure by the employee to file a written request for review within ten calendar days of the effective date of layoff, unless explained to the satisfaction of the Commission, shall operate as a bar to further resource by the party thereof.

- e) The notice of a layoff communicated to an adversely affected employee shall indicate that the employee has the right of review by the Commission pursuant to paragraph (d) above.

RULE IX - SUSPENSIONS, DEMOTIONS, DISCHARGES AND RESIGNATIONS

Section 1. Suspensions for Not More than Ten Working Days

An appointing officer may for disciplinary purposes due to delinquency, misconduct, or inefficiency, suspend an employee under the appointing officer's jurisdiction without pay for a period not to exceed ten working days, and provided suspensions of the same employee shall not exceed an aggregate of ten working days in any period of one year from the date of the first suspension, the action of the appointing officer shall be final and not subject to appeal or review by the Civil Service Commission. Such action, and the reasons for the action, shall be promptly reported to the Director. For the purposes of these rules, ten working days equals eighty hours.

Section 2. Other Suspensions, Demotions, and Discharges of Permanent Employees

- a) For just cause, an appointing officer may suspend without pay for periods of more than ten days, demote or reduce in pay or position, a permanent employee under the appointing officer's jurisdiction. An appointing officer intending to take such action shall, prior to the effective date, provide the employee with written notice of the proposed action clearly setting forth the effective date of the suspension, demotion, or reduction in pay or position, and the specific act or acts or omissions constituting just cause for the appointing officer's action. Prior to the effective date of the proposed action, the appointing officer shall provide an opportunity for the employee to present reasons why the proposed suspension, demotion, or reduction in pay or position should not occur. If the appointing officer decides to impose the discipline, it shall be promptly reported to the Director on a form prescribed by the Director which shall inform the employee of the right of appeal to the Commission in accordance with Rule X.
- b) An appointing officer may for just cause discharge a permanent employee under the appointing officer's jurisdiction. An appointing officer who intends to discharge a permanent employee shall give the employee written notice of the intent to discharge on a form prescribed by the Director clearly setting forth the specific act, acts, or omissions that constitute cause for discharge and identifying the evidence supporting the proposed discharge. The notice shall inform the employee of the date and time of the department's pre-discharge meeting at which the employee must appear. At the pre-discharge meeting the employee shall have the opportunity to submit in writing or personally, reasons why the proposed discharge should not occur. At the conclusion of the meeting, the employee will be informed if the proposed discharge will occur. If the appointing officer decides to impose the discipline, it shall be promptly reported to the Director on a form prescribed by the Director which shall inform the employee of the Right to Appeal to the Commission in accordance with Rule X.

Section 3. Voluntary Demotions

- a) Upon written request from an employee, an appointing officer may demote the employee to any class of positions for which the employee is qualified. No demotion shall be made unless there is a vacancy in the class to which the employee requests demotion. A copy of the employee's request and the appointing officer's approval shall be filed with the Director.
- b) Upon approval of a voluntary demotion, the employee shall serve a probationary period in the class to which demoted if a prior probationary period in that class has not been completed.

Section 4. Resignations

- a) All resignations shall be in writing. Upon acceptance by the appointing officer, the resignation shall not be rescinded or withdrawn except at the sole discretion of the appointing officer. Immediately after receipt of a resignation, the appointing officer shall indicate on the prescribed form in the appropriate space, whether or not the employee is eligible for rehire. The appointing officer shall transmit the resignation to the Director and shall promptly deliver to the employee, or mail to the employee's last known address, a copy containing the appointing officer's statement of whether the employee is eligible for rehire. An employee's failure to submit the resignation to the appointing officer not less than two weeks prior to its effective date may be considered sufficient grounds for determining that the employee is not eligible for rehire. A voluntary resignation shall not be considered coerced and shall not be subject to appeal in accordance with these rules.
- b) Any permanent employee who has resigned from the service while in good standing as indicated by notation on the resignation form that the employee is eligible for rehire, shall upon written request to the Director, within two years of the effective date thereof, be placed on the appropriate employment list or lists for a period not to exceed two years from the effective date of the employee's resignation.
- c) A permanent employee who is forced by the appointing officer to resign in lieu of discharge may appeal such coerced resignation to the Civil Service Commission. The effective date of the termination shall be the same date as the coerced resignation.

RULE X - APPEALS

Section 1. Actions Which May Be Appealed to or Reviewed by the Civil Service Commission

Only the following actions may be appealed to the Civil Service Commission:

1. Applicant evaluation score
2. Discharge
3. Demotion
4. Reduction in pay or position for disciplinary reasons
5. One or more suspensions without pay totaling more than 10 days / 80 hours in any twelve month period.
6. Coerced resignation
7. Constructive discharge

Section 2. Review and Appeal of Applicant Evaluation Scores

- a) Applicants shall have the right, within five days following the administration of a written examination, to review a keyed examination booklet under the following conditions:
 - 1) Keyed examination booklets may be reviewed only once by each lawful applicant participating in the examination.
 - 2) The applicant may review the keyed examination booklet for a period of time not to exceed the original time limit established for the examination.
 - 3) The applicant reviewing the keyed examination booklet shall not be allowed to take notes or by any other means be allowed to reproduce the examination booklet in whole or in part.
 - 4) The applicant shall not be allowed to leave the review area during the review process.

Applicants shall also have the right to file with the Director during the five-day review period, objections to the keyed written examination booklet. Objections shall be in writing on a form prescribed by the Director and shall clearly state the basis for the objection. Within ten days of the filing of any objection, the Director shall respond to the examinee in writing with a decision regarding the objection.

- b) Review of Individual Applicant Evaluations

Within fifteen working days following the date final notices of applicant evaluations have been mailed, applicants shall have the right to review all of his/her evaluation materials that reflect a numerical value assigned to his/her performance in the

evaluation process. Written comments associated with any numerical value will be made available to applicants only when the identity of the evaluator can be protected. Upon request, any applicant will be provided a numerical synopsis showing all raw test scores and any formula scores developed by the Department of Human Resources related to his/her performance.

c) Request for Review of Applicant Evaluation Score

Within thirty calendar days after the date on which notification of the results of any applicant evaluation process was mailed to applicants, an applicant may request a review of the applicant's achieved score. Applicants shall have the right to request a review of his/her score associated with a written, oral, physical abilities, or performance test, rating of training and experience, or any other measure used by the Department of Human Resources. The request for review must be in writing clearly stating the basis for the request and must be filed with the Director of Human Resources.

The Director shall investigate any request for review and shall, within thirty calendar days of receipt of the request prepare a report containing a summary of all findings and shall include a decision regarding the request. Failure of the Director of Human Resources to render a decision within the required time period shall be a basis for the applicant to request a review by the Civil Service Commission.

d) Appeal of Individual Applicant Evaluation Score

Within ten days of the issuance of the Director's report and decision referred to in section (c) above, any applicant may appeal to the Civil Service Commission. The appeal must be in writing clearly stating the basis for the appeal, be filed with the Director, and specify the disagreements with the report prepared by the Director. Disagreements with:

- 1) The composition of any performance review panel, assessment center assessor panel, performance test or application rating panel, or
- 2) The judgment of any evaluator, or
- 3) The substance of any written comments by any evaluator, or
- 4) The contents of the keyed examination booklet shall not be accepted as the basis for an appeal to the Civil Service Commission.

The Commission shall review the Director's report and the applicant's written appeal and shall either render a final decision or direct that a hearing be scheduled. The decision of the Commission shall be final.

e) Effects of Corrections by Director or Commission

Any error identified by the Director as a result of a request for review by an applicant of either a keyed examination booklet, or an applicant's own score will be corrected. If necessary, the scores of all applicants will be adjusted to reflect the correction, but such correction shall not affect the consideration of applicants or appointments previously made from the established employment list.

If necessary, following an appeal of an applicant evaluation to the Civil Service Commission, applicant scores will be adjusted to reflect the decision of the Commission, but such adjustment shall not affect consideration of applicants or appointments previously made from the established employment list.

Section 3. Appeal from Suspensions, Demotions, Discharges, Coerced Resignations and Constructive Discharges

- a) A permanent employee who has been suspended, demoted, or reduced in pay or position, or discharged in accordance with Rule IX Section 2, or alleges coerced resignation or constructive discharge shall have the right of appeal to the Commission. Such appeal shall be in writing, shall specify the grounds upon which it is based, and shall be filed with the Director not later than ten calendar days after receipt by the employee of notice of the appointing officer's action. Failure of the employee to file the appeal within ten calendar days absent a satisfactory explanation to the Commission shall operate as a bar to further recourse on the individual's part and the Commission shall order the appointing officer's actions be made final.

1) Upon receipt of the notice of appeal the Director shall promptly:

- a) Furnish the appointing officer with a copy of any appeal filed.
- b) With the approval of the Chairperson of the Commission, fix a time and place for the holding of a hearing thereon, and
- c) Shall immediately issue under authority of the Commission a notice providing the following:
 - 1) The time and date set for the hearing of appeal
 - 2) The hearing may be conducted by the Commission or by a Hearing Officer pursuant to Rule X, Section 3(c)
 - 3) Such hearing on an appeal shall be held within forty-five calendar days after receipt by the employee of the appointing officer's action.
 - 4) In the case of an appeal of a coerced resignation, the Commission shall hold a preliminary hearing to determine if the resignation was voluntary. Within ten calendar days of the employee filing his/her appeal, the appointing officer shall provide the employee and the Director a written

statement describing the circumstances surrounding the resignation in lieu of termination. Within ten calendar days of the date of the appointing authority's statement, the employee may file a detailed written response.

In making its decision, the Commission shall consider all submitted documentation and render its decision or the Commission may question the parties. The preliminary hearing shall be for the sole purpose of determining the voluntariness of the resignation. Prior to conducting the hearing, the Commission shall issue a Preliminary Order establishing that:

- i) The employee bears the burden of proof to show that the resignation was caused by overt or wrongful acts of the appointing authority;
- ii) The appointing authority will then have the burden of proof to show that no actions took place for the employee to resign in lieu of termination.

If the Commission finds the resignation was voluntary, the Commission shall dismiss the appeal for want of jurisdiction.

If the Commission finds the resignation was not voluntary, the appeal will be set for hearing in accordance with these rules.

- 5) In the case of an appeal of constructive discharge the Commission shall schedule a hearing to determine whether there is objective evidence to support an employee's allegation that the appointing officer created and/or allowed intolerable working conditions and refused to address the issue(s) after being given fifteen days notice of the condition and the employee's intent to resign. The employee bears the burden of establishing that a reasonable person would feel compelled to resign under such working conditions. At the hearing, the appointing authority shall have the opportunity to rebut the allegations.

If the Commission finds the conditions as presented by the employee were so difficult or unpleasant that a reasonable person would have felt compelled to resign, and that the appointing officer failed to adequately address the conditions, the Commission shall issue Findings of Fact, including recommendations regarding remedial action.

If the Commission finds the conditions as presented by the employee were not unreasonable and/or were appropriately addressed by the appointing authority, the Commission shall dismiss the appeal.

- b) The hearing shall be open to the principal parties and witnesses and shall also be open to the public unless the employee has requested otherwise in writing. A summary of the proceedings shall be made by a mechanical recording device, or

any other means that allows for an accurate summary or transcript. Both the employee and the appointing officer shall appear at the hearing and present their evidence and witnesses, either personally or through his/her chosen attorney or representative. Technical rules of evidence shall not apply at the hearing. Irrelevant, incompetent, immaterial, or unduly repetitious evidence and evidence protected by rules of privilege recognized in judicial proceedings may be excluded. Both parties shall be allowed reasonable latitude in the presentation of his/her case and shall file with the Commission all documents, records, or reports necessary to the determination of the appeal. If either party fails to appear at the time and place set for the hearing, the Commission may award the decision to the opposing party, provided that the Commission may reconsider the decision for a good cause.

- c) The Chairperson, or the Director with the concurrence of the Commission, may designate three or more members to hold the hearing and take testimony, or may delegate one of its members to hold the hearing and take the testimony, in which case a transcript of the hearing and hearing officer's report shall be reviewed by a majority of the Commission prior to its making a decision. A decision to sustain the action of the appointing officer or to impose any lesser penalty shall require a majority affirmative vote of the Commissioners then constituting the quorum. In the absence of a decision by a majority, the action of the appointing officer shall be overruled and in the event of discharge or coerced resignation, the employee shall be reinstated with full back pay and benefits.
- d) Subsequent to the conclusion of the appeal hearing, the Commission shall issue a written decision and its order for the disposition of the case. In this respect, the Commission may decide that the action of the appointing officer stands, that a lesser penalty be imposed, or that the employee's former status be reinstated. Except when the Commission's decision orders that a discharge for just cause shall stand, pension and seniority rights shall not be affected by any disciplinary action. If the Commission orders the employee reinstated to his/her former status, it shall specify as part of its decision whether the employee shall receive back pay for all or part of any time lost as a result of the appointing officer's action.
- e) When an appeal is made by the Director of Human Resources, Chief of Police, or Fire Chief, the decision of the Commission shall be advisory only; in all other cases it shall be binding and final and the appointing officer shall impose the Commission's decision.
- f) Not less than ten calendar days prior to the date set for any hearing on any appeal pursuant to Section 3 of Rule X, all parties represented by an attorney or other representative, shall through his/her attorney or representative, meet and discuss the issues of fact and law if any, and shall jointly prepare and submit to the Civil Service Commission a Pre-Hearing Statement which shall contain the following:
 - 1) A list of all exhibits which either party intends to utilize at the hearing along with a statement that each exhibit may be admitted without objection or a statement of the objection to the exhibit:

- 2) A list of the witnesses intended to be called at the hearing by each of the parties and any objections to the listed witness(es);
- 3) A statement as to the uncontested facts which the parties agree are material and which can be stipulated to;
- 4) A list of the contested issues of fact and law;
- 5) A statement as to whether or not the parties agree that the Department of Human Resources' personnel file for the appealing employee may or may not be considered by the Civil Service Commission as a part of the evidence at the hearing, including performance evaluations, commendations, reprimands, and any and all other contents of said personnel file.

Failure of either party to submit the aforesaid statement may be viewed by the Civil Service Commission as a waiver of any right to proceed under this Section 3 Rule X; and may result in postponement of the hearing, in limitation of the evidence presented by said party, entry of a decision against the party failing to submit same, or such other action as the Commission deems appropriate.

- g) The formal judicial rules and devices of discovery, including interrogatories and depositions, shall not be used in proceedings before the Civil Service Commission except by order of the Commission.

An employee who appeals a termination or disciplinary action shall be entitled to receive, upon request to the City Attorney with notice to the Civil Service Commission, copies of the following documents: the employee's entire personnel file; all memoranda or other documents, other than those containing confidential attorney client communications, prepared as a result of the events underlying the termination or disciplinary action that is being appealed; and all documents prepared for use as exhibits at the hearing.

Additional disclosure may be ordered by the Commission only upon written request and only if the information sought is determined to be relevant to the termination or disciplinary action being appealed.

Section 4. Termination of Appeal

An employee, who has either individually, through legal counsel or other representative, requested a continuance of a hearing on appeal shall have one hundred twenty days from the date of filing in which to complete the appeal. Requests for continuance shall be in writing and either side shall have the opportunity to file an objection. No continuance shall be granted upon the request of the employee, unless the employee agrees in writing that the extended time resulting from the continuance may be excluded from any award of back pay. When scheduled, the Director shall notify the employee of the hearing date. Barring exceptional cause, no additional

continuances shall be granted by the Commission beyond the one hundred twenty days from the original date of filing. If the employee fails to appear for a scheduled hearing, the appeal shall automatically be dismissed. Within ten days of automatic dismissal by the Commission, the employee may request in writing, with good cause shown, that the Commission reinstate the appeal. The Commission shall have the discretion to hold a hearing on petitioner's request and the decision of the Commission shall be final and will be made a part of its official record.

Section 5. Administrative Review of Applicant Evaluation Rejection and/or Removal from Employment Lists

- a) Any applicant whose application for admission to an entrance or promotional applicant evaluation has been rejected by the Director for any of the reasons set forth in Rule III Section 7 may request review by the Commission for reconsideration of the application. The Commission shall consider such request provided it is in writing and received by the Director not less than forty-eight hours prior to the announced time for holding a written applicant examination or other applicant evaluation process. The Commission will review the applicant's written request and the Director's justification for the rejection. The Commission's decision with respect to any such review shall be final and the applicant shall be notified thereof by the Director.
- b) Applicants may be admitted conditionally to an applicant evaluation or any part thereof by the Director pending consideration of a duly filed review. Admission to an applicant evaluation or any part thereof under such circumstances shall not constitute a waiver of the rejection of the applicant's application and shall not entitle the applicant to a score on such evaluation or a place on the employment list established thereby if the review is subsequently denied by the Commission.
- c) An applicant whose name has been removed from an employment list for any of the reasons specified in Rule III Section 7 and/or Rule IV Section 5 may request review and reconsideration by the Director. The request must be made in writing within ten calendar days after the date that notification was made to the applicant and state the specific grounds for review. The Director shall review the request and render a decision citing the reason for the removal and the applicable rules and regulations that were followed. Written notification of the Director's decision shall be final and mailed to the applicant within five business days of the decision.

The Director shall compile a report, omitting personal identifying information, of all applicants removed from employment lists and the particular reason for removal as specified in Rule III Section 7 and/or Rule IV Section 5, and submit the report to the Commission at the regularly scheduled Quarterly Meetings. The Commission may request backup documentation for any removals.

RULE XI - RECORDS AND REPORTS

Section 1. Personnel Records

- a) The minutes of the Commission, employment lists, requests to fill vacancies and appointment forms shall be open to inspection by the public during office hours. Applicant evaluation materials, examination papers of applicants, service ratings, and personnel files of applicants and employees, however, shall not be available to the public. Under no circumstances shall scores earned by an applicant who fails to secure a passing score on an applicant evaluation be made available to the public.
- b) The Mayor and members of the Council shall be given access to all records of the Commission, and appointing officers shall be given access to all records pertaining to employees under their respective jurisdictions, except that no such officer, or any other person, may take applicant evaluation materials, or copies thereof, from the Department of Human Resources nor have access to such materials as may have been selected for a pending applicant evaluation process unless designated by the Director as a consultant in the preparation thereof.

Section 2. Payroll Information

It shall be the duty of the Director to assure that a record is maintained of the names, the titles of positions, the rates of pay, all changes in employment status, and other pertinent data of all employees including all leaves of absence for which deductions in pay are to be made, to the end that payrolls may be accurate and in accord with these rules.

Section 3. Transcript of Testimony

When there is a request for a written verbatim transcript of all testimony given at an open or closed hearing of an employee's appeal, the Executive Secretary shall provide the copy with the cost to be borne by the requesting party. If the transcript is prepared commercially, the cost of the requesting party shall be that which the Civil Service Commission is charged. If the transcript is prepared by the City, the cost to the requesting party shall be at the preparer's hourly wage rate including all fringe benefit costs.

RULE XII - CERTIFICATION OF PAYROLLS

Section 1. Submission of Payrolls

All payroll vouchers and accounts or demands containing the names of persons claiming amounts past due them as salaries or wages for services rendered in positions in the classified service shall be submitted to the Director before any warrant or check is drawn, signed, or issued, or any sum of money is otherwise disbursed in payment thereof.

Section 2. Review and Examination of Payrolls

It shall be the duty of the Director to examine and review payroll vouchers and accounts or demands submitted to the end that no person shall receive compensation for services rendered or purported to have been rendered in any position in the classified service who has not been appointed and employed therein in accordance with the provisions of the Charter, the ordinances of the Mayor and Council, and these rules and regulations.

Every appointment, transfer, promotion, change of salary rate, and any other temporary or permanent change in status of employee shall be reported by department directors or appointing officers to the Director on such forms as the Director may prescribe.

Section 3. Certification of Payrolls

- a) If upon examination the Director finds such payroll vouchers and accounts or demands to be in conformity with all provisions of the Charter, the ordinances of the Mayor and Council, and these rules and regulations, the Director shall make certification to such effect.
- b) If the name of any person on any such document is found to be contrary to such provisions, the Director shall, after consultation with the department director or appointing officer concerned, and provided such document can by correction be brought into conformity with such provisions, afford the department director or appointing officer the opportunity to correct the same. If such correction cannot be made or is not made, the Director shall certify such document only as to the names found thereon if any, in compliance with such provisions noting in such certification the name or names of persons thereon which are excepted and not certified thereby for payment together with the reasons therefor. Such certification may authorize the payment of any part of the amount purporting to be due any such excepted person which the Director may find to be due and payable. No officer or employee of the City shall draw or sign any warrant or check or otherwise pay any person any amount to which the Director has thus taken exception.

In all cases in which the Director has taken exception in making certification either as to the whole or part of the amount purporting to be due, the department director or appointing officer concerned may appeal to the Commission which after opportunity is afforded all interested parties to be heard shall finally determine the matter.

RULE XIII – AMENDMENTS

If and when it appears desirable in the interest of good administration, the Commission may make necessary additions to or amend these rules at a public hearing and after affording a reasonable opportunity to the City officers and employees for consultation thereon, and after due notice to the public by posting notice in three public places.

RULE XIV - EFFECTIVE DATE

These Rules and Regulations shall become effective when approved by the Commission.